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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR ✓	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,031	01/20/2004	Thomas J. Wheeler	0275S-468COA	3122
27572	7590	03/28/2005	EXAMINER	
HARNES, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			PAYER, HWEI SIU CHOU	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/761,031		WHEELER ET AL. CD	
	Examiner		Art Unit	
	Hwei-Siu C. Payer		3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-23 is/are allowed.
- 6) ☒ Claim(s) 1,9,11,16 and 18 is/are rejected.
- 7) ☒ Claim(s) 2-8, 10, 12-15, 17 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

The amendment filed on 1-11-2005 has been entered.

Claims Objection

Claims 11-19 are objected to because of the following informalities:

In claim 11, lines 5-6, "said channel adapted to receive said saw blade" is redundant since the limitation cited therein has already been included at lines 4-5 of the claim.

Appropriate correction is required.

Claims Rejection - 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lew (U.S. Patent No. 4,458,421).

Lew shows a reciprocating saw comprising a housing (14), a motor (11), a saw blade (2), a substantially planar carrier (4), a channel (see Figs.1-2) formed in a first portion of the carrier (4) for receiving the saw blade (2), a slot (8) at a second portion of

the carrier (4) forming an opening through carrier (4), a rotatable element (12), a support (i.e. the shaft of the motor), and a follower (9) as claimed.

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai (U.S. Patent No. 5,479,709).

Lai shows a reciprocating saw comprising:

a housing (see Fig.3) containing a motor (1);

a saw blade (120) having a cutting edge (see Fig.2), a mounting edge and a side surface, the side surface defining a first plane;

a carrier member (6) having a first portion including a base defining a second plane, the base adapted to receive the saw blade (120, see Fig.1), wherein the first plane is parallel to the second plane and the first plane rests on the second plane, and a second portion, the second portion having a slot (62) forming an opening through the carrier member (6) defining a guide path;

a rotatable element (4) rotated by an output shaft (i.e. the spindle of the motor, see column 2, line 24) extending from the motor (1);

a follower (5) for operably interconnecting the second portion and the rotatable element (4) wherein rotation of the rotatable element (4) provides reciprocal linear motion of the carrier member (6) whereby the follower (5) follows a reciprocal linear pattern within the guide path substantially as claimed. Further, element (7) is considered as a fan since it creates a current of air.

The mere difference between Lai and the claimed invention resides in the location of a channel that receives one end of the blade (20). Specifically, in Lai, the channel that receives the blade (120) is formed on a clamp member (10, see Fig.2) rather than on the carrier member (6).

However, the claimed location of the channel is not patentably distinct over Lai. As long as the blade is received within the channel, whether the channel is on the blade carrier or on the clamp depending more upon the choice of manufacturer than on any inventive concept.

Further, it would have been obvious to one of ordinary skilled in the art at the time this invention was made to modify Lai by rearranging the location of the channel so that it is on the carrier member (6) rather than on the clamp (10), since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70 (CCPA, 1950).

3. Claims 9 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai (U.S. Patent No. 5,479,709) as applied to claims 1 and 11 above, and further in view of Armstrong (U.S. Patent No. 5,535,520).

Lai as modified above shows all the claimed structure except a base portion (for resting on a workpiece to be cut during cutting operation) is releasably attached to the housing by a screw (see Fig.3) rather than by the claimed lateral rails/walls arrangement.

Armstrong shows a reciprocating saw comprising a housing (14,40) and a base portion (36) releasably attached to the housing (14,40) by a lateral rails/walls arrangement (53,54,56,68, see Figs.3 and 5).

It would have been obvious to one skilled in the art to further modify Lai by attaching the base portion to the saw housing by means of a lateral rails/walls arrangement to afford a quick release of the base portion from the saw housing without the use of a tool as taught by Armstrong.

Indication of Allowable Subject Matter

1. Claims 2-8 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

2. Claims 12-15, 17 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims and to overcome the objection as set forth.

3. Claims 20-23 are allowed.

Remarks

Applicant argues, at page 9 of the amendment, Lew fails to disclose a substantially planar carrier as well as a channel to receive the saw blade. Examiner disagrees. Figure 1 of Lew clearly shows one extremity (15) of the saw blade (2) is received in the extremity (16) of the carrier (4). The extremity (15) of the saw blade (2) is confined within a substantially U-shaped recess or channel (referring to Figs.1 and 2 of Lew). Further, the channel includes a base portion defines a plane from which locking pins (17,18) extend.

Applicant's arguments with respect to newly amended claims 11 and 16 have been considered but are moot in view of the new ground(s) of rejection.

Applicant further argues, at page 11 of the amendment, Lai fails to disclose a channel. On the contrary, Lai as modified above indeed shows a channel.

Action Made Final

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 571-273-4511 for proposed amendments.

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H Payer

March 23, 2005

H Payer

Hwei-Siu Payer.
Primary Examiner